

Proposed Changes for Harbor Lines in Bellingham Bay

The Washington State Department of Natural Resources (DNR) is considering a relocation of the harbor lines in front of the City of Bellingham. The Port of Bellingham has requested that DNR recommend to the Harbor Line Commission to move the inner and outer harbor lines to align Bellingham Bay harbor areas with current shorelines and navigable water depths, and to support the preservation of nearshore, shallow-water habitat areas, while preserving deepwater areas for navigation and commerce activities.

The Harbor Areas is the area between the inner and outer harbor lines, established by the state Harbor Line Commission on state-owned aquatic lands in front of cities and up to one mile beyond city limits. Article XV of the state Constitution requires that Harbor Areas be forever reserved for landings, wharves, streets, and other conveniences of navigation and commerce. The state's system of Harbor Areas protects land-to-water and water-to-land transportation. Harbor lines were originally established in front of the City of Bellingham in September 1, 1891.

HARBOR LINE RELOCATION OPTIONS

The following options developed by DNR staff represent a compilation of facts and current existing conditions in eight geographical areas (Sub-areas) within the existing harbor area in Bellingham Bay. These options should not be perceived as harbor line relocation alternatives. These options are presented to stimulate discussion and solicit written public comment, and comments at the October 10, 2006 informational meeting in the Harbor Center Building-Conference Room at the Port of Bellingham, 1801 Roeder Avenue in Bellingham.

The options along with the comments generated by the public review for each sub-area will be taken into consideration to develop alternatives for the harbor line relocation in Bellingham Bay. These different alternatives will be presented by DNR staff at a formal public hearing on Wednesday, November 8, 2006 in the Harbor Center Building-Conference Room at the Port in Bellingham.

In order to analyze potential harbor line relocation alternatives, the various options have been prepared for the following geographic areas:

1. Little Squalicum Creek
2. Squalicum Creek Marina
3. Central Waterfront
4. Port of Bellingham's Marine Terminal
5. Pine Street, Cornwall and Boulevard Park
6. Taylor Avenue Dock
7. Fairhaven Ferry Terminal and Harris Avenue Shipyard
8. Chuckanut Bay

As with the Port Proposal, these options must be reviewed to determine whether they meet the Harbor Line Commission criteria. Accordingly, each option must:

1. Be consistent with the plans and development guidelines of public ports, counties, cities, and other local, state and federal agencies.
2. Describe economic and environmental impacts.
3. Allow for public access to the waterfront.
4. Be consistent with Indian treaty rights.
5. Address cumulative impacts of similar relocations on water dependent commerce.
6. Discuss any precedence setting effect on other harbor areas.

SUB-AREA 1: Little Squalicum Creek

CURRENT STATUS

This sub-area is northwest of the Squalicum Waterway, and is the location of the Cement Plant Pier and the Mt. Baker Products Company. The question is whether the harbor area is required for commerce and navigation purposes. The City of Bellingham has proposed that the shoreline fronting the Mt. Baker Products Company be designated Urban Conservancy under the shoreline master plan. The U.S. Geological Survey (1980) documents that the nearshore along this site is rapidly filling with Nooksack river sediments. Because of this natural process, this area has been identified for potential habitat and beach restoration. Although there are some industrially owned properties shoreward of the inner harbor line, a steep bluff separates the uplands from the water, which may limit any future commercial/industrial development. The tidelands are owned either by the Port of Bellingham or Tilbury Cement Company. A pier that supports a cement pipeline is located in this portion of the harbor area crossing tidelands owned by the Port of Bellingham, but is seldom, if ever, used by the cement plant. The City of Bellingham has proposed that the entire shoreline in this sub-area be designated Urban Conservancy.¹

Option A

Eliminate harbor area based on future local shoreline master plan criteria. As is, the harbor area could potentially be inconsistent with the master's plan shoreline designation.

Option B

Retain harbor area. Upland ownership is not all public, and abutting private landowners would have first option rights to lease any new unplatted tidelands. There are plans to have kayak-launching locations at certain points in this sub-area.

Option C

Retain harbor area only for Cement Dock. This dock fits the requirement of docks, wharves and other conveniences of commerce and navigation for harbor areas. Although the dock is not currently being used for commercial purposes, the owners want to retain

¹ Under the draft shoreline master plan, the Urban Conservancy Designation is defined "to protect and restore ecological functions, open space, floodplains, and other sensitive lands, where they exist in urban and developed settings, while allowing a variety of compatible uses. In effect, uses will not be allowed that result in a net loss of shoreline ecological functions."

that option. The dock extends into the harbor area across Port of Bellingham owned tidelands. The City of Bellingham has indicated a desire that this dock be converted to a public access structure, which is an allowable use within harbor areas.

SUB-AREA 2: Squalicum Marina

CURRENT STATUS

This sub-area consists of the Squalicum Creek Marina, which occupies the tidelands abutting the harbor area. The harbor area itself is under a Port Management Agreement. The Squalicum Creek Marina includes a breakwater, which was built in the harbor area by the Corps of Engineers to protect the marina facilities. The City's shoreline master plan proposes that the shoreline from the southeastern shore of Squalicum Waterway to the southern shore of Squalicum Marina be designated as Urban Maritime environment.

Option A

Eliminate harbor area. This harbor area has been and will be used in the future for commerce and navigation. Elimination of the harbor area in this location does not appear to be an option.

Option B

Retain harbor fronting Squalicum Creek Marina to include existing navigational improvements.

SUB-AREA 3: Central Waterfront

CURRENT STATUS

The Central Waterfront sub-area includes the shoreline from the I & J Waterway to the west side of the Whatcom Creek Waterway. Tidelands in this area are primarily owned and controlled by the Port of Bellingham. Other owners include Ebanal Construction, the US Coast Guard and the City of Bellingham. The area between I & J Waterway and Whatcom Waterway is occupied by the former Roeder Avenue Landfill, the former Georgia Pacific aeration sedimentation basin (ASB) and the former Chevron facility and Colony Wharf. Much of this area is a Model Toxics Control Act (MTCA) site, to be remediated by the Port of Bellingham and the City of Bellingham. The Port of Bellingham's goal for this area is mixed-use development, with a marina located in the former aeration basin. The Port plans to dredge some of the more contaminated sediments from the Whatcom Waterway and take them to an upland landfill while capping areas with lower concentrations of sediments in order to meet the State of Washington's sediment management standards. The state's harbor area in this sub-area of the bay is occupied by a portion of the current sediment pond. Habitat benches and sediment capping are planned for the portion of the basin breakwater facing the bay. There are no plans for the expansion of the sediment basin or for structures to be built outward into the bay. The question that needs to be asked is whether to relocate the harbor area waterward in order to connect the I & J and Whatcom Waterways, and preserve an area for the public development of commerce and navigation facilities. If the harbor area is relocated, it could be made part of the Port of Bellingham's Port

Management Agreement area. The proposed land use designation for this sub-area is identified by the New Whatcom Special Land Use District that authorizes mixed-use development on the filled private tidelands.²

Option A

Move harbor area away from shore to connect I & J Waterway and Whatcom Creek Waterway (Port proposal). Nearshore habitat bench and cap, if instituted under local plans, may preclude development of docks, wharves and other conveniences of navigation and commerce. Movement of the harbor area waterward would not conflict with harbor area designation. It would facilitate construction of park or marina in ASB.

Option B

Eliminate harbor area. This harbor area has been and will be used in the future for commerce and navigation. Elimination of the harbor area in this location does not appear to be an option.

Option C

Retain harbor area as is. Restoration and caps are allowed uses within harbor areas, especially if they are not exclusive uses.

SUB-AREA 4: Port of Bellingham's Marine Terminal

CURRENT STATUS

This sub-area is bounded by Whatcom Waterway to the northwest, and the intersection of Pine Street and Cornwall Avenue. The harbor area in this location contains not only the Port's marine terminal, but the Port's barge off-loading facility as well. Pine Street bisects the harbor area, and the harbor area landward of Pine Street has been filled and historically used as a part of the marine terminal. The harbor area waterward of Pine Street has been used historically as a log storage area. This is not likely to be the case in the future. Currently, the Port of Bellingham manages this part of the harbor area under a Port Management Agreement (PMA). The Port owns filled private tidelands abutting the harbor area. The PMA allows the Port to manage State Owned Aquatic Lands for the benefit of the local community. Most land-use plans for the area have recommended the retention of the marine terminal and the barge off-loading area. This sub-area is included within the New Whatcom Special Development Area proposed by the City of Bellingham in its Shoreline Master Plan. In the Shoreline Master Plan, the filled portion of the harbor area has been designated as a mixed-use development area. The uses in the portion of the

² The City of Bellingham and the Port of Bellingham entered into an "Interlocal Agreement Regarding 'New Whatcom Special Development Area'" on January 4, 2005. Under this agreement, the City and the Port agreed to develop jointly a New Whatcom Development Plan. As of the writing of this information document, that joint plan has not been issued in draft, nor has it been evaluated under the applicable SEPA process. This agreement also committed the Port and the City to pursue outside funding for projects located within the Special Development District. According to the Shoreline Master Plan map, this special development district extends from the southern shore of Squalicum Marina to the southern end of Cornwall Landfill.

harbor area occupied by Port docks and wharves would be retained. Sediment caps are being considered that will cover a portion of the Harbor Area adjacent to Pine Street.

Option A

Move harbor area waterward (Port proposal). This option would exclude the existing filled portion of the harbor area and the areas planned for capping. The Port plans to use the area for mixed development of light industrial, residential, and commercial activities. Movement of the harbor area waterward of Pine Street would exclude the south side of the existing marine terminal, and current barge loading area from the harbor area. However, the Port plans to continue operation of the marine terminal. Docks in this area may be extended in the future to accommodate larger vessels and take advantage of deeper water. Caps would exist on created tidelands, which could be transferred to the control of a local public agency.

Option B

Move harbor lines so that inner harbor line would correspond with Pine Street. This option would retain the existing marine terminal and barge off-loading, as well as provide rail and street transportation access to the marine terminal. This change would be consistent with the Port's plans to operate this marine terminal as a deep-water facility. Caps would exist within the harbor area, but caps will have to be engineered to allow marine terminal purposes. Institutional controls will have to be designed to allow this use and also protect human health and the environment.

Option C

Retain harbor area as presently configured. The existing harbor area would be used as part of a marine terminal, with railroad and road connections along Pine Street. Expansions would be allowed at dock facilities to the limits of the Outer Harbor Line. This option may limit uses due to planned sediment capping.

Option D

Eliminate harbor area. This harbor area has been and will be used in the future for commerce and navigation. Elimination of the harbor area in this location does not appear to be an option.

SUB-AREA 5: Pine Street, Cornwall and Boulevard Park

CURRENT STATUS

The northern boundary of this sub-area is the intersection of Pine Street and Cornwall Avenue. The southern boundary is the south end of Boulevard Park. Docks wharfs and lumber mills have historically occupied this portion of the harbor area. Railroad Avenue bisects the harbor area in this location. Much of the northern portion of this sub-area, including the Cornwall Landfill and the RG Haley treating facility, has been designated as a contaminated site under the State's Model Toxics Control Act. The historical industrial uses no longer exist. These sites are being remediated, and the planned land uses will consist of a shoreline park and mixed-use development. The final clean up will be consistent with the planned land uses, and institutional controls will be instituted to

protect human health and the environment. In summary, the shoreline in this area will be used as a park that will provide public access opportunities. It has been proposed that the sub-area from Pine Street to the southern end of the Cornwall landfill be included within the New Whatcom special use district under the City of Bellingham's Shoreline Master Plan (SMP). The SMP proposes that the shoreline south of the Cornwall landfill be designated Urban Conservancy.

Option A

Eliminate harbor area. This option would be consistent with the primary use of the harbor area as a park. While the tidelands created by the elimination of the harbor area could be reserved for long-term use as a public park, the elimination of the harbor area in this location would interfere with development of commerce and navigation required by the mixed-use development on the uplands (filled tidelands). The contaminated sediment caps would in part be located on tidelands, which could be transferred to the control of a local public agency. Removing the harbor line designation, however, will cause much of the harbor area to revert to beds of navigable waters. It must be recognized that by removing the harbor area, the portion of Railroad Avenue that exists on beds of navigable waters would automatically be vacated. Since, and as long as, the shoreline in the area is in public ownership, no private preference rights could restrict public use of this area.

Option B

Move harbor area waterward. This would result in the creation of unplatted first class tidelands. Ownership and/or management control of these unplatted first class tidelands could be transferred to a local public agency. By retaining a harbor area in this location, future commerce and navigation potential for the upland mixed uses would be retained. The City's Railroad Avenue easement would also be retained.

Option C

Retain existing harbor area. Since most of the planned primary uses in this area are "interim" uses under the harbor area statutes, retention of the harbor area would preclude long-term protection of interim uses, but would allow them to continue. The movement of the inner harbor line would allow a local public entity to acquire the tidelands and use them in a manner inconsistent with public use and access. This option would not impact the status of Railroad Avenue.

SUB-AREA 6: Taylor Avenue Dock

CURRENT STATUS

The Taylor Dock sub-area runs from the south end of Boulevard Park to the south side of the Taylor Avenue dock, and has historically been used for railroad and industrial purposes. This railroad spur was built on pilings over Railroad Avenue, while Taylor Avenue Dock connected the Northern Pacific Railroad spur with the uplands. The City of Bellingham has designated the shoreline as Urban Conservancy, which would seem to restrict commerce and navigation uses within the area. Since the City still maintains the Railroad Avenue right of way, however, and this is currently being used for public access, commerce and navigation uses appear to be limited in any case.

Option A

Eliminate harbor area. This option would be consistent with the primary use of the harbor area as a park. The tidelands created by the elimination of the harbor area could be reserved for long-term use as a public park. Eliminating the harbor area in this location could mean that Railroad Avenue would be located over beds of navigable waters. By removing the harbor area, the portion of Railroad Avenue that exists on beds of navigable waters would automatically be vacated.

Option B

Move harbor area waterward. This option would be consistent with the primary use of the harbor area as a park. The tidelands created by the removal of the harbor area could be reserved for long-term use as a public park. Railroad Avenue would overlay unplatted first class tidelands, and preserve the City's easement, now being used for public access. This option would also maintain future development of navigation and commerce facilities waterward of the City's public access facilities.

Option C

Retain existing harbor area. Since the shoreline has been designated as Urban Conservancy, this option seems problematic, since the developments that would support commerce and navigation as a primary use would be difficult to build, if they were not precluded from this sub-area altogether. Though the harbor area designation does not foreclose the public access component, or interfere with the Urban Conservancy objectives of the City's shoreline plan, these components should be considered as interim uses, with commerce and navigation given priority.

SUB-AREA 7: Fairhaven Ferry Terminal and Harris Avenue Shipyard

CURRENT STATUS

This part of the harbor area includes the shoreline from the south side of Taylor Dock to the South end of the Harris Avenue Shipyard managed by the Port. Since the early 1900s, this part of the Bellingham Bay shoreline has been used as a commercial and industrial site for a variety of fish processing, ship building and ship repair activities. This site is still used for commercial and industrial activities, and requires harbor area. The Port of Bellingham has proposed an expansion of the harbor area in this location. The Port hopes to purchase and install a larger dry dock facility at some point in the future. This will require an expansion of the Harbor Area in the area of the Harris Avenue Shipyard. The City of Bellingham has proposed that this portion of Bellingham Bay be designated Urban Maritime Environment.

Option A

Eliminate harbor area. This harbor area has been and will be used in the future for commerce and navigation. Elimination of the harbor area in this location does not appear to be an option.

Option B

Move harbor area waterward. The improvements within the existing harbor area meet the constitutional definitions included in Article XV, Section 1 of docks, wharves and other conveniences of commerce and navigation. However, it may be necessary to move the outer harbor line waterward to facilitate the Port's need to expand Harris Avenue Shipyard.

Option C

Retain existing harbor area. Absent the need to expand the harbor area in this location, retention of the existing harbor area is a viable option. This option would preclude the Port's plans for expanding the dry dock facilities.

SUB-AREA 8: Chuckanut Bay

CURRENT STATUS

Within the City of Bellingham, Chuckanut Bay abuts an area designated as shoreline Urban Conservancy and another designated as a natural area. Much of the lands landward of the inner harbor line are in private ownership. The harbor area, since the uplands do not appear available for commerce and navigation development, maintains an option for public access, and prevents private development that may conflict with public use. The land use designations south of the City limits are controlled by Whatcom County, and are therefore not subject to the City of Bellingham's shoreline management plan.

Option A

Eliminate harbor area. Since the harbor area is placed over both beds of navigable water and first class tidelands, the removal of the harbor area could create unplatted first class tidelands. Though public access to the area is limited, the removal of the harbor area could potentially foreclose public uses.

Option B

Move harbor area waterward. Since there appears to be no future opportunity for commerce and navigation, the relocation of the harbor area does not seem practicable or necessary.

Option C

Retain existing harbor area. This option would retain harbor area used in part for Railroad Avenue in the City of Bellingham, and for public access/anchorage areas in the Chuckanut Bay area. Retention of the harbor area would also allow future development of public access facilities in the bay, as long as those facilities were consistent with the shoreline land use designation.